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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)										
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>October 31, 2006</u>  Signature <u><i>Helen Tinsley</i></u> Typed or printed name <u>Helen Tinsley</u>		Application Number <u>10/679,880</u>	Filed <u>10/06/2003</u>									
		First Named Inventor <u>David Delgado</u>										
		Art Unit <u>1725</u>	Examiner <u>Kerns, Kevin P.</u>									
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table border="0"><tr><td><input type="checkbox"/> applicant/inventor.</td><td><u><i>PS</i></u> Signature</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td><u>Patrick S. Yoder</u> Typed or printed name</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent of record. <u>37,479</u> Registration number</td><td><u>(281) 970-4545</u> Telephone number</td></tr><tr><td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td><u>October 31, 2006</u> Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <table border="1"><tr><td><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</td></tr></table>				<input type="checkbox"/> applicant/inventor.	<u><i>PS</i></u> Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Patrick S. Yoder</u> Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. <u>37,479</u> Registration number	<u>(281) 970-4545</u> Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>October 31, 2006</u> Date	<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
David Delgado

Serial No.: 10/679,880

Filed: October 6, 2003

For: FLEXIBLE WELDING IMPLEMENT
AND METHOD OF
MANUFACTURING SAME


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Group Art Unit: 1725

Examiner: Kerns, Kevin P.

Atty. Docket: 14099/YOD
(ITWO:0068)

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CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:	
October 31, 2006 Date	 Helen Tinsley

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In accordance with the Official Gazette Notice of July 12, 2005, Appellant submits this Pre-Appeal Brief Request for Review. This Request is filed along with a Notice of Appeal.

In the Office Action, the Examiner rejected claims 1, 3-27, 35 and 37-42. Appellant submits that all of pending claims 1, 3-27, 35 and 37-42 are allowable in their present form and respectfully requests reversal of the outstanding rejections.

Summary of the Rejections

In the Office Action, the Examiner rejected claims 18-21 under 35 U.S.C. § 102(b) and/or 102(a) as being anticipated by Appellant's purported admitted prior art (paragraph 3 of the specification). The Examiner also rejected claims 1, 3, 10, 11, 13-25, 35, and 37-41 under 35 U.S.C. § 102(b) as being anticipated by Keller et al. (U.S. Patent No. 4,145,595, hereinafter "Keller"). Further, in the Office Action, the Examiner rejected claims 4-9 under 35 U.S.C. § 103(a) as being unpatentable over Keller in view of Delgado et al. (U.S. Patent No. 6,855,905, hereinafter "Delgado"). The Examiner also rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Keller in view of Rehrig (U.S. Patent No. 5,403,987, hereinafter "Rehrig"). The Examiner also rejected claims 26, 27, and 42 under 35 U.S.C. § 103(a) as being unpatentable over Keller in view of Willgoths et al. (U.S. Patent No. 3,999,033, hereinafter "Willgoths"). Appellant respectfully traverses these rejections.

Purported Admitted Prior Art with Regard to Claims 18-21

Although Appellant does not agree with assertions made by the Examiner alleging that Appellant has admitted prior art in the specification with regard to claims 18-21, Appellant is willing to cancel claims 18-21 to advance prosecution of the present application.

Omitted Features of Independent Claims 1, 10, and 35 in Keller

In the Office Action, the Examiner suggested that "[b]ecause the helix [of Keller] is embedded in and cushioned by an elastomeric material (serving as a tube support member), it is also feasible to make a double helix (forming a plurality of biasing members) of tubular or solid wire when it is necessary to supply a cooling liquid having both a flow inlet (supply line) and a flow outlet (return line) to the torch (both lines of which would include axial flow components), the combination of which would serve as a tripod support system, in the form of three springs/coils that are flexibly secured to the torch head while being disposed generally parallel with one another and with an axis of a

handle supporting the torch head.” Office Action, pages 3-4 (emphasis in original). To support this position, the Examiner relied upon lines 19-27 on page 5 of the Keller reference which read:

Because the helix is embedded in and cushioned by an elastomeric material, it is also feasible to make the double helix of tubular rather than solid wire, this being useful when it is necessary to supply a cooling liquid for the torch through the helix. In this case, one coil of the double helix serves as a flow inlet and the other as a flow outlet, the central bore 29 in the body 28 still providing a passage for the supply of shielding gas.

Appellant respectfully submits that Keller fails to disclose each and every element of independent claims 1, 10, and 35, and thus fails to anticipate these claims. With respect to independent claim 1, the Examiner contended it is “feasible to make a double helix ... of tubular or solid wire.” Office Action, page 4. However, in order “to supply a cooling liquid having both a flow inlet (supply line) and a flow outlet (return line),” the double helix would *necessarily* have to be made of *tubular* material. Otherwise, the only available flow path to the torch head would be through the central bore 29 in the body 28. According to Keller, the central bore 29 appears to be reserved for the passage of shielding gas. Therefore, the double helix in Keller *must be made of tubular material* in order to provide a cooling supply tube and a cooling return tube, as recited in claim 1. However, because claim 1 clearly recites two biasing members comprising of *non-tubular* material, Keller cannot anticipate independent claim 1 or the claims depending therefrom.

Keller also fails to anticipate independent claims 10 and 35 for similar reasons. For instance, independent claim 10 recites a “plurality of non-tubular coils ... wherein the torch directs the cooling liquid to flow through the coils to and from the torch head.” Here again, according to the Examiner’s interpretation of Keller, in order for the cooling liquid to flow *to and from* the torch head, the coils described in Keller *would have to be made of tubular material*, as opposed to the *non-tubular* coils specifically recited in

independent claim 10 as amended. Therefore, Keller cannot anticipate independent claim 10 or the claims depending therefrom. Similarly, independent claim 35 recites “a plurality of tubes operable to convey fluids; and a plurality of coils comprising a helix of non-tubular material ... to route fluids axially through the coils.” Therefore, for the same reasons, Keller cannot anticipate independent claim 35 or the claims depending therefrom.

For at least these reasons, Appellant respectfully requests withdrawal of the rejections under 35 U.S.C. § 102 and allowance of claims 1, 3, 10, 11, 13-25, 35, and 37-41.

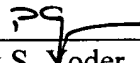
Deficiencies of the 103 Rejections

Appellant notes that each of claims 4-9, 12, 26, 27, and 42 depends directly or indirectly from independent claims 1, 10, 18, and 35. Although Appellant does not concede to the rejection of claims 26 and 27, Appellant is willing to cancel and/or submit those claims as dependent from base claims other than independent claim 18, which Appellant is willing to cancel to advance prosecution. With regard to the remaining claims rejected under Section 103, as discussed above, Keller does not disclose each and every element of Appellant’s recited invention as claimed in independent claims 1, 10, 18 and 35. Furthermore, Delgado, Rehrig, and Willgoths do not obviate the deficiencies of Keller. As a result, dependent claims 4-9, 12, 26 27 and 42 are allowable on the basis of their dependency from respective allowable independent claims, as well as for the subject matter separately recited in these dependent claims. Accordingly, Appellant respectfully requests withdrawal of the Examiner’s rejection and allowance of claims 4-9, 12, 26, 27, and 42.

For all of the above reasons, Appellant respectfully request that the Panel instruct the Examiner to withdraw the outstanding rejections and allow the pending claims.

Respectfully submitted,

Date: October 31, 2006



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